[Mr. V. Subba Aiyar.]

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I beg to move that, in line 2, last paragraph of Clause 33, the word "on" be substituted for "after".

MR. N. KUMARAN (*Nominated*): I second it.

The amendment was carried.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I beg to move that the Bill as amended be finally passed.

MR. M. GOVINDAN (*Co-opted*): I second it.

The motion was carried.

MR. P. PARAMESVARAN (*Nominated*): അടുത്ത കൌൺസിലിൽ ഒരമൻറുമെൻറു കൊണ്ടുവരാൻ സ്വാമിക്കു സാധിക്കയില്ലയൊ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): അടുത്തതിലും ഞാൻതന്നെ ഇരിക്കുമൊ എന്നു തീച്ചയില്ല.

MR. P. PARAMESVARAN (*Nominated*): ൪൦ ഭേഗതികളും വെച്ചു കൊണ്ടുവന്നിരിക്കുന്ന സ്വാമിക്കു നമ്പൂരിമാരുടെ വകുപ്പിനെ ഞാൻ വിവരിച്ച അമൻറുമെൻറു കൊണ്ടു വരരുതൊ?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Mr. Paramesvaran asks me why, when I have introduced a large number of amendments to the Bill, it is not possible for me to introduce an amendment to delete Clause 33, and amend it in such a way as to say that any *misradaya* Ezhava can apply to the Government to be excluded from the provisions of this Regulation. I have only to tell him that the amendments were put in only because they were of a non-controversial nature. If there was any difference of opinion about any of them, I would not have introduced them. Seeing that Mr. Kumaran and Mr. Govindan oppose a provision of the nature that Mr. Paramesvaran requires, I do not think the Government will be justified in introducing it. I may tell him that, if I happen to be a non-official member in the next Council and if he will convince me as to the necessity for that amendment, I shall help him as far as I can.

MR. P. PARAMESVARAN (*Nominated*): ഗവർണ്മെൻറിൽനിന്നും ഇതു കാര്യത്തിൽ ദയവുചെയ്യാൻ വിചാരിക്കുന്നുണ്ടൊ?

PRESIDENT: It is not in order. This Council cannot say anything in regard to the intentions of Government.

The Income Tax Regulation Amendment Bill.

PRESIDENT: We will now proceed to the consideration of the Income Tax Regulation Amendment Bill.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I beg to submit the report of the Select Committee on the Income Tax Regulation Amendment Bill, and move that the same be taken for consideration.

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MR. S. PARAMESVARA AIYAR (*Secretary to Government*): I second it.

Clause 1.

MR. L. R. RAJA RAJA VARMA KOILTAMPURAN (*Edavakai*): Sir, I beg to move the following amendments.

1. "Section 2 (1) (*a*) Line 1. Insert "any" between "from" and "land"; and the words "in Travancore" between "land" and "which."

2. Delete lines 2 and 3.

3. Delete the following:—

"The following shall be added as an explanation to Section 2 (1) (*a*)

Explanation:—Any rent paid to Government by holders of Kandukrishi lands is within the meaning of the expression 'land revenue' occurring in this clause."

To show the purpose of this amendment, I shall read the provision in the existing Regulation."

"Agricultural income means 'any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue or subject to a local rate assessed and collected by officers of Our Government as such."

That is, by the deletion of the qualifying clause I have made all agricultural income to be exempted from taxation, and by the addition of 'any' and 'in Travancore'; I have curtailed the scope of its application so as to exempt any agricultural income in Travancore. Since all agricultural income was thus exempted, the explanation relating to Kandukrishi land became superfluous and hence was dropped. It was the suggestion of the majority of the Select Committee that the proprietors of Edavakais should be taxed and the tenants under them should not be taxed for their agricultural income. I have no quarrel with the committee for recommending the exemption of the tenants. Only I thank them for having realised that they at least ought to be exempted. But I hold that the proprietors also have a just claim for such exemption.

I hold the Government have recognised contracts express or implied, between themselves and the Chiefs of Edavakais for their enjoyment of their *Tanatu* lands tax free; what is being collected at present in the two Edavakais of Edapalli and Kilimanoor is not the usual proprietor's pattom, that is the full yield of the land or as much as it would fetch in the open market—but only a comparatively smaller sum similar to that recovered by Government as land revenue after a regular revenue settlement. And I believe it is the intention of the Government now to extend their practice of a regular revenue settlement, and fixation of tenure to the tenants in the other Edavakais also. Though I am representing the Edavakai constituency, I am still in the dark as to what exactly constitutes an Edavakai. What are its essential factors and what necessarily distinguishes an Edavakai from a big Jenmi I do not know. There are different classes of Edavakais enjoying various sorts of privileges. They range from almost tributary chiefs to mere Jenmies or largelanded proprietors. Naturally each has a different history to trace regarding the acquisition of his holdings and

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[Mr. L. R. Raja Raja Varma Koiltampuran.]

the conferment of his privileges. The case with the jenmies is probably worse. Though all these are grouped together only under two heads as Edavakais or jenmies respectively, they cannot all be brought under the same rule for assessment of their income. Some have really very strong cases in their favour if taken to and considered in a court of law. I am not dragging in here the question of the validity of these contracts or gifts, etc. If any of them have any complaints, let them seek remedy in a court of law. But what I emphasise here is only this. We should not devise legal measures to defeat the purpose of original agreements or contracts simply because we do not at present wish them so. True there are a few people, the proprietors of Edavakais and jenmies, who are exempted from the payment of land tax to the State. But their right is conferred on them for some good reason or other. If they are asked to pay a tax on the income derived from every land for the only reason they were not assessed to land tax and we try to impose it on them under the name income tax instead of land tax, I wonder what else it means except to defeat the purpose of the original contract and make up a false show. It is for the honor of the State, for the honor of this House, neither to attempt at a false show nor to make a direct breach of contract. I really do not wish that any man with a decent income who enjoys the privileges of citizenship should be freed from contributing his mite to the State by way of tax. That is no reason why anybody's grants or gifts or contracted amounts should be forfeited partly at least. What I contend is that the Edavakai chiefs and the jenmies may be assessed only for such items of income as are assessed in the case of the rest of the population. There is no good in saying that agricultural income from lands paying revenue to the State is not taxed only to avoid a double taxation on the same income; my contention is that the land tax of these tax-free lands is to be viewed as tax charged and remission allowed back to the owner, as compensation for services rendered or as gifts, or for any specific valid reasons. If the Government holds that there are no such valid grounds for the non-assessment of these Edavakai lands or jenmom lands for all or for some of them at least, let them be immediately brought under the land tax assessment. I for one do not wish that the poor labourer with a few cents of ground should pay his heavy tax to benefit such privileged aristocrats, or that the State should maintain such an unequal and unjust distribution of taxation in the land. I would rather advocate the exemption of the poor tax-payer by setting up a taxable minimum and an imposition of a consequential super-tax on the rich than maintain any such anomaly. But if there be any contract, express or implied, between these Edavakai proprietors and our Government, or whatever the reason be, is it not unjust on our part now to withdraw the same? What I point out is, the simple reason that the whole set go under the same category Edavakai or jenmies, should not in any way prejudice us to assess all of them alike on their agricultural income. So long as both these two kinds of taxes, income tax and land tax, are collected, agricultural income can be charged under land tax and every other source

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of income under income tax. That is the way to separate the two and avoid double taxation of the same income. I do not propose to discuss here the suggestion contained in the second paragraph of my dissenting minute—that necessitates an entire reform—I leave it to the members of the next Council. With these few words, I submit my amendment for the acceptance of the House.

PRESIDENT: So you are deleting lines 2 and 3 of clause 1. Your amendment does not end there.

MR. L. R. RAJA RAJA VARMA KOILTAMPURAN (*Edavagai*): That is only a portion of the amendment. When the first amend ment is moved, there is no necessity for the others.

MR. TRIVIKRAMAR VASUDEVAR (*Jenmies*): ഞാൻ ഇതിനെ സെക്കൻറ് ചെയ്യുന്നു. ഈ ആദായനികുതി റെഗുലേഷന്റെ ഉദ്ദേശം ഒരു വിധത്തിലും ഗവർണ്മെൻറിലേക്ക് ആദായം കിട്ടാത്തതായ ഓരോ വരവുകളിൽ നിന്നും ആദായം കിട്ടുന്നതിന് ആയിരിക്കണം. ഈ ദിക്കിലുള്ള വസ്തുക്കൾക്ക് ഒക്കെ ഏതെങ്കിലും ഒരു വിധത്തിൽ അതിൽനിന്ന് ഗവർണ്മെൻറിലേക്ക് ആദായം തീച്ച്യായും കിട്ടിവരുന്നുണ്ട്. അതു നെല്ലായിട്ടൊ പണമായിട്ടൊ മറ്റു വല്ല പ്രവൃത്തി ആയിട്ടൊ ഇങ്ങനെ ഏതെങ്കിലും സ്വഭാവത്തിൽ ആ വസ്തുക്കൾ അനുഭവിക്കുന്നവരൊക്കെ ഓരോ നികുതിയായിട്ടും അല്ലെങ്കിൽ പ്രവൃത്തിയായിട്ടും ഗവർണ്മെൻറിലേക്ക് ചെയ്യുവരുന്നു. അങ്ങിനെ ഇല്ലാത്ത വസ്തുക്കൾ തിരുവിതാംകൂറിൽ ഉണ്ടായിരിക്കുമെന്ന് ഞാൻ വിചാരിക്കുന്നില്ലാ. വിരുത്തിവസ്തുക്കൾ വിട്ടുകൊടുത്തിട്ടുള്ളതിന്റെ ഉദ്ദേശംതന്നെ നോക്കിയാൽ പണ്ട് ഒക്കെ മതില്ലകത്ത് ഓരോ അടിയന്തരങ്ങൾക്ക് വേണ്ടി ഓരോ പ്രവൃത്തികൾ ചെയ്യുന്നതിനും ഓരൊ സാമാനങ്ങൾ ഏർപ്പാടാക്കുന്നതിനും ഒക്കെ ആണ് ഈ വസ്തുക്കൾ വിട്ടുകൊടുത്തിട്ടുള്ളതു. കണ്ടെഴുത്തോടുകൂടിയാണ് വിരുത്തിവസ്തുക്കളെ എല്ലാം പാട്ടമായുംമറ്റും അവക്ക് പതിച്ചുകൊടുത്തത്. അതുമാതിരി ഇപ്പോൾ കരമൊഴിവായിട്ട് ഏതെങ്കിലും വസ്തുക്കൾ ഗവർണ്മെൻറിൽനിന്നു കാണുകയാണെങ്കിൽ ആവക വസ്തുക്കൾക്കു വേണ്ടി ഏതെങ്കിലും ഒരു പ്രവൃത്തി ഗവർണ്മെൻറിലേക്ക് ചെയ്യുന്നുണ്ടെന്ന് അന്വേഷിച്ചാൽ വെളിപ്പെട്ടുന്നതാണ്. അല്ലാതെ യാതൊരു ആദായവുമില്ലാതെ തിരുവിതാംകൂറിൽ—

MR. N. PADMANABHA PILLAI (*Karunagapalli*): ശമ്പളത്തുക ജോലിചെയ്യുന്നതിനുള്ള പ്രതിഫലമല്ലെ?

MR. TRIVIKRAMAR VASUDEVAR (*Jenmies*): അല്ലാ.

MR. N. PADMANABHA PILLAI (*Karunagapallai*): ശമ്പളംകൊടുക്കുന്നതു പ്രതിഫലം അണെല്ലൊ.

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[Mr. Trivikraman Vasudevar.]

MR. TRIVIKRAMAR VASUDEVAR (*Jenmies*): ജന്മിമാരുടെ ഒരു നതുവസ്തുക്കൾ എന്നു പറയുന്നതു അവർക്കുള്ള കരമൊഴിവു വസ്തുക്കളെ ആണ്. തനതു അല്ലാത്തതിനെ ഫ 0 പണം എങ്കിലും അത്ഥം ചുമത്തി കുടിയാന്മാർക്ക് എഴുതികൊടുത്താൽ ഇപ്പോൾ അതിൽനിന്നു സർക്കാരിലേക്ക് രാജഭോഗം പിരിക്കണമെന്നു കണ്ടെഴുത്തുകാലത്തു തീരുമാനിച്ചിട്ടുണ്ട്. രജിസ്റ്റർപ്രമാണംനിമിത്തം പോക്കുവരവിന്റെ കാപ്പി ഗവർണ്മെൻറിനു കിട്ടുകയും അതിലേക്കു ഹ/വ കരം പതിക്കയും ചെയ്യും. ഇപ്പോൾ നോക്കിക്കഴിഞ്ഞാൽ കരമൊഴിവായുള്ള വസ്തുക്കൾതന്നെ ചുരുക്കമാണ്. അങ്ങിനെ വച്ചിട്ടുള്ളതു് വല്ല ക്ഷേത്രങ്ങളിലും പൂജനടത്തുന്നതിനൊ മറു വല്ല പ്രവൃത്തിക്കൊ ആയി വിട്ടിട്ടുള്ളതും അതിലേക്കു അതിന്റെ ആദായത്തിൽനിന്നും ഏതെങ്കിലും അനുഭവിച്ചുകൊള്ളണമെന്നു ഈ ഗവർണ്മെൻറിൽനിന്നു വളരെ നിർബന്ധമായി കരാറുചെയ്തിട്ടുള്ള വസ്തുക്കൾ മാത്രമെ അത്ഥവകാശത്തിൽപെടാതെ ജന്മിമാരുടെ വസ്തുക്കളായി കിട്ടീട്ടുള്ളു. അങ്ങിനെയുള്ള വസ്തുക്കൾക്കും ആദായനികുതി കൊടുക്കണമെന്നു കാണുന്നു. ഇടവകക്കാർക്കും ഇതുപോലെ ഉണ്ടായിരിക്കും.

പിന്നെ ഈ ഉദ്യോഗം ഭരിക്കുന്നതിനു ശമ്പളമില്ലെ? ശമ്പളത്തിനു ആദായനികുതി ചുമത്തുന്നുണ്ടൊ? അങ്ങിനെതന്നെയാണ് ബ്രിട്ടീഷ് ഇൻഡ്യയിൽ നടക്കുന്നതു; അവിടെ ശമ്പളത്തിനുപ്രത്യേകം നികുതി ചുമത്തുന്നുണ്ട്. അതുപോലെതന്നെ പണം മുടക്കി വ്യാപാരം നടത്തുന്നവരിൽനിന്നും മറു ചില വ്യാപാരങ്ങൾ ചെയ്യുന്നവരിൽനിന്നും ഗവർണ്മെൻറിനു വലിയ ആദായമില്ല. വലിയ മൊത്തക്കച്ചവടക്കാരിൽ നിന്നാകട്ടെ ചില്ലറ കച്ചവടക്കാരിൽനിന്നാകട്ടെ മറു പലവിധത്തിൽ ആദായം എടുക്കുന്നവരിൽനിന്നാകട്ടെ ഗവർണ്മെൻറിനു് യാതൊരുആദായവും സാദ്ധിക്കുന്നില്ലാ. അങ്ങിനെഗവർണ്മെൻറിലേക്ക് കച്ചവടക്കാരിൽനിന്നും പണം സമ്പാദിക്കുന്നവരിൽനിന്നും, അതായതു് യാതൊരാദായവും സിദ്ധിക്കാതിരിക്കുന്നവരിൽനിന്നു്, ആദായം കിട്ടുന്നതിനായിരിക്കണം ആദായനികുതി റെഗുലേഷന്റെ ഉദ്ദേശം. വിശേഷിച്ചു് വസ്തുക്കളെ സംബന്ധിച്ചു് കരം ചുമത്തിവന്നതിനുശേഷം വസ്തുക്കൾക്ക് ആദായം, കരം മുതലായവ മാത്രം വച്ചിട്ടുള്ള പഞ്ചായത്ത് റഗുലേഷൻ വരുന്നു. ഭൂമിയിലെ കൃഷി വളരെ മോശപ്പെട്ടുവരുന്നു; അതിനു് അനുരൂപമായ വളം കിട്ടാതെ കന്നുകാലികളുടെ ശരിയായ സംരക്ഷണമില്ലാതെ, കൃഷിയിൽ താല്പര്യമില്ലാത്തതു

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കൊണ്ട് കൃഷി പലവിധത്തിൽ നാശമായിട്ടാണ് കാണുന്നതു്. തൽനിമിത്തം കൃഷിക്കാരുടെ വസ്തുക്കളിൽ ആദായം കുറയുന്നതിനും കരം കൊടുക്കാതിരിക്കുന്നതിനും കൃഷി നഷ്ടം ഉണ്ടാകുന്നതിനാൽ കാരണമായിതീരുന്നു. അതിൽ കവിഞ്ഞ ആദായം എടുക്കുന്ന വസ്തുക്കളിൽനിന്നും നികുതികൊടുക്കണമെന്നു പറയുന്നതു നന്നായിരിക്കുന്നില്ല. അതിനാൽ ഞാൻ മിസ്റ്റർ രാജരാജവർമ്മ കോയിത്തമ്പുരാന്റെ അമെൻഡുമെൻറിനെ പിൻതാങ്ങുന്നു.

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): I beg to support the amendment moved by Mr. Raja Raja Varma; and in doing so, I would draw the attention of the Council especially to the Edapalli Edavakai. The Chief of Edapalli was once in good old days an independent prince. Subsequently he came under the Cochin Raja and after Cochin was taken over under the suzerainty of the British Government, the Edapalli Chief of his own accord came under the protection of the Travancore Maha Raja. The arrangement was done by a regular treaty. According to that treaty the Chief was allowed to collect all the revenue from the Edavakai and for the civil and criminal jurisidiction of the Chief by Travancore, a fixed sum was given to Travancore Government and it is even now paid by him.

PRESIDENT: How is this relevant for the consideration of the present question?

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): I simply wanted to show to the Council that he is not like an ordinary Jenmi or Chieftain.

PRESIDENT: You will have to argue that in another place on another occasion. This is a Regulation which applies to Jenmies and Edavakais in general.

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): There is no justification for this Regulation with respect to the Edapalli Chief.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*): May I know from Mr. Govinda Menon whether he would exempt the Edapalli Chief hereafter from paying customs duties, Anchal charges and all kinds of taxes?

PRESIDENT: As to the liability of the Edapalli Chief to tax that question does not arise here. That is foreign to the consideration of the Income Tax Regulation.

MR. A. GOVINDA MENON (*Alangad* cum *Parur*): Under this position the Chief has no power to collect anything from the tenants; while the Chief who has got a fixed income from Pandaravagai lands can collect that income. He is subjected to further burden. So what I submit is that the Edapalli Chief is not in the same position as that of a jenmi for all ordinary purposes.

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[Mr. V. Subba Aiyar.]

PRESIDENT: This is not the right time for you to argue that aspect. You must do it elsewhere if the Edapalli Chief objects to the assessment.

MR. A. GOVINDA MENON (*Alangad cum Parur*): Anyhow, in my opinion there is no justification in this Regulation for the position now assumed by Government.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I beg to oppose the amendment. The object of this Regulation is that rich people should contribute towards the expenses of the administration, especially of a progressive administration and that it should fall fairly equally upon all. If we accept that principle, I believe my friends on the other side of the House will not have any serious objection to drop the amendment. Under this Regulation, the proprietor of the land who gets an income less than Rs. 2,000 will not be liable to be taxed. It is only if the income goes above Rs.2,000 that he will be liable to be taxed. My friends on the other side of the House want that this Regulation should not apply to Jenmies and Edavakais although some have only spoken about Edavakais. I mean the mover and the seconder want to exclude Jenmom lands; my friend Mr. Govinda Menon will limit himself to the Edapalli Edavakai. If the amendment is accepted, the Edavakais will go and jenmies also, and persons who are in possession of lands which are not liable to be assessed. That is the third class of persons who may own lands not liable to be assessed to land revenue. What I submit is that this amendment is very wide and vague. Secondly, Mr. L. R. Rajaraja Varma referred to various circumstances that were taken into consideration in giving these lands free and said there will be a breach of contract. If there has been a contract between the parties concerned that they shall not be liable to any assessment in future for all time to come and if the agreement was between a particular chief and the Government, I daresay it is open to the party concerned to agitate that question in a court of law. Particularly, under the new amending Bill, there is a provision which provides for a special reference to the High Court. If it is said that a particular Edavakai is not liable to be taxed, that may be taken to the court of law. If the contract between the Government and the Chief concerned is to the effect that the Government is not entitled to tax him certainly he will be exempted; and I may even draw the attention of my friend Mr. Raja Raja Varma to the Singampetti Zemindar's case reported in the Indian Law Reports, Madras.

MR. L. R. RAJA RAJA VARMA KOILTAMPURAN (*Edavakai*): May I know whether the Government have recognised any contract?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Files have to be looked up and ancient customs of these people have to be examined. I cannot express an opinion off-hand on the question of contract.

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MR. L. R. RAJA RAJA VARMA KOILTAMPURAN (*Edavakai*) : I sent in an interpellation and it has not been answered as yet. If that is answered, I shall be satisfied.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : If the terms of the contract could be inferred by courts either from the written terms of the agreement or from usage existing in the particular case, I daresay the High Court will go into the question if reference is made. As for Edapalli being exempted as suggested by Mr. Govinda Menon, I daresay there is another provision according to which it is open to Government to exempt any particular persons or class of persons. If, certainly, Mr. Govinda Menon convinces the Government on behalf of the Edapalli Chief that he could not be taxed on account of the relation or treaties existing between the Government and the Chief, Government would certainly consider and pass such orders as may be necessary. What I say is there is a specific provision, and that should be fought out elsewhere and the provision should not be deleted for Edapalli Chief thus depriving Government of the power of assessing others who are not similarly situated. As regards the agricultural proprietors, it is not the actual cultivators that pay tax. They are exempted under the Section.

MR. C. SANKARA MENON (*Quilon*): What is the justification for exempting persons holding lands under the Edavakai Chief who may not actually cultivate but who enjoy through sub-tenants? Both the Chief and the tenant are receivers of rent.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I understand the point. Just as in the case of Pandarapattom lands, they are exempted from the tax. But in the latter case, that is to say, if a person who actually cultivates is exempted, the proprietor need not be exempted. We do not assess the tenants or persons who hold under the jenmi for his income. That is, when once a particular portion of an income from land is large and we do not propose to tax the other portion, a person is taxed; we need not tax twice. For Jenmies' share we are taxing the income that he gets. The tenants need not be similarly taxed. It is on account of that that the tax has been avoided. In other words, you could not tax the proprietor and tenant both together for income from the same land.

MR. C. SANKARA MENON (*Quilon*): Do they get the same income from the land?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): In the case of an agriculturist as such, because he is a tiller or the cultivator of the soil, he must have special indulgence.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Is not the owner of the Pandarapattom land exempted irrespective of the fact that he cultivates it himself or not?

PRESIDENT: He is supposed to cultivate it himself.

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[Mr. T. K. Velu Pillai.]

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): As a matter of fact, he does not cultivate. He does not get as much out of it as he would if he cultivated.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Sir, I was waiting to hear the pronouncement made by the official member on this question. I am in entire accord with the amendment proposed by my friend Mr. L. R. Raja Raja Varma. Before I enter into the merits of this particular question I have to make an appeal to the Council to consider that the persons who are affected by the proposed law, if the amendment is not accepted, form a minority. Now, Sir, if all agricultural income were to be taxed, you will find the representatives of the people elected and nominated coming here and protesting against any infringement of their right and protesting against the liability of agricultural income to be taxed. But there are certain classes of Edavakais and Jenmies who are in a minority. Therefore when we consider this question affecting the rights of minority, I expect the Council will rise to its full stature, generosity and also justice. Mr. L. R. Raja Raja Varma's amendment is, I think, an innocuous one even for the Government. Mr. Subba Aiyar said that the object of the Income Tax Regulation is to tax the rich people. It is partly true and partly not correct. If agricultural incomes are exempted, whether the income amounts to Rs. 50 or Rs. 5,000 or Rs. 50,000 that question should not arise. The fact that the Edavakai owners are getting large amounts from their tenants ought not to induce us to invade their rights, because even according to the answer that has been returned to questions from this side of the House, a man who has got a land will either cultivate it himself with the help of his wife and children or if he is a rich man he will have labourers or he may give it on lease and enjoy the benefits of the land. I am unable to find any distinction between a person who cultivates the land himself and a person who lets it out and then gets income from that land. Therefore the statement that those people who do not actually cultivate should be taxed is not entitled to a moment's respect. The wealthy are made to pay income-tax for a different reason. The major portion of the land in the State is taxed. There are some people who may not have lands at all. They may be Vakils or officers or merchants. It is to reach these people and to get something from them for the services of the public purse that the Income Tax Regulation has been designed. It is not to violate the right that exists and it is not to bring under the operation of the Income Tax Regulation persons who get money from agricultural sources. Mr. Subba Aiyar also said if the amendment is accepted the Jenmies and Edavakais will go out of the operation of the Income Tax Regulation. That is a matter on which, if we pass the amendment, we ought to congratulate ourselves. Our business is not to tie a noose round the neck of those people who are now safe. If Mr. Subba Aiyar says with sufficient authority and if he is able to satisfy the House that a distinction ought to be made between the people who cultivate lands

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directly and those who cultivate them through tenants, that is a different question. But that is not his argument. His argument was, if the amendment was accepted, the Jenmies and Edavakais will go out of the purview of the Regulation. Mr. Subba Aiyar on behalf of the Government is certainly entitled to consider the financial position of the Government. He may be sorry if the Government loses any money. But that is not the view that should commend itself to us. There was something mentioned about contract and breach of contract.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*): May I know on whom lies the burden of proving the non-liability to taxation?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Certainly on those who claim it. I am not at all for exempting any class of persons from taxation. There is indirect taxation, taxation on salt, tobacco and all manner of things. And if some of these people are of the modern world, they will have to pay other taxes, Excise tax, Abkari tax, all these they have to pay. I do not want to exempt them from the operation of the Registration Regulation. If they execute documents, they will have to pay; if they travel they must pay; if they have children to go to school, they must pay for their education. I am entirely at one with Mr. Nidiry in regard to all that. But where is the principle? That is the question that I would ask the House. The breach of contract theory has also been started from this side, and Mr. Subba Aiyar said, if any man feels that his right is infringed, let him agitate the question in a court of law. I am unable to satisfy myself that it is correct.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I never said that.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Yes, you said, "agitate the matter in a court of law."

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No. What I said was there will be breach of contract and then it is open to you to go to a court of law.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): That is exactly what I meant. I particularly refer to the breach of contract theory referred to by Mr. Subba Aiyar. If there is a contract, Government ought to be able to say there is a contract. And for gentlemen of my friend's experience and grasp of things to have told the House that he does not know whether there is a contract—that is a kind of attitude which ought to prejudice the Council against the Government version.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I say whether in each case there is a contract between a particular Jenmi and the Government cannot be said unless it is examined.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): If Mr. Subba Aiyar said, with regard to a particular Edavakai or a particular Jenmi the court of law may adjudicate—

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[Mr. T. K. Velu Pillai.]

PRESIDENT: That is what he said.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): He did not refer to a single instance. If there is any contract, as a very able advocate as we know him, he should say, "look here, there are 100 instances of the kind." In two or three instances where there are contracts, he may give the names.

PRESIDENT: Why should he give names? You have probably misunderstood him. He said that the terms of each contract, if a contract exists, will have to be examined.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): That is what I understood. So far as the suggestion is concerned, to strengthen his argument he might have said there is a particular Edavakai and that is a matter of contract. However I am not going to pursue that point. Another argument was that it is open to Government to exempt anybody. We are living too late in the day to accept such a sanguine expectation and hope. Because Government have got power to exempt, should I allow a statute to be incapable of providing the power of declaring one particular person liable and another person not liable?

MR. V. SUBBA AIYAR (*Additional Head Sikar Vakil*): May I know whether he will ask the House to go into the relations between the Edavakais and the Government and then come to the conclusion that a particular person is to be included or excluded?

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Certainly not.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Then how will he put it?

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Mr. L. R. Raja Raja Varma's amendment is not about Edavakais.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I was referring to Mr. Govinda Menon's statement.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): His statement is not relevant. I have got very grave doubts whether his reference to Edapalli Chief was relevant. I may say my argument is relevant. Let us for the moment forget the Edapalli Chief. Let us only remember the principle. The principle is that agricultural income should be exempted, whether, as I said, it is Rs. 50,000 or Rs. 5. I cannot find any distinction as regards the principle. Sir, these Jenmies have been enjoying a privilege which have been conferred upon them. Whether it is as a matter of contract or whether it flowed from the generosity of the Sovereigns of Travancore, it is immaterial. They have been enjoying those rights. If an ordinary citizen is exempted from payment of income-tax from agricultural income, simply because the

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Chief happens to get some more of the same quantity, are we to impose taxation? If I consume ten times the salt that Mr. P. K. Narayana Pillai consumes, am I to pay more tax on salt? That is exactly the view I have taken. Sir, I have taken a homely example, so that people who take the opposite side may understand it. Let us free our mind of the consideration of the amount of income; let us only consider the principle. The amendment is a very reasonable one. If the actual cultivator is to be exempted, the man who gets the income from the cultivator should be exempted. These aristocratic families have been enjoying their rights from time immemorial. The Government very often steps in to get some revenue. If they do likewise in the case of communities who are numerically strong, they will protest and the Government will not be able to get the revenue. I am saying deliberately that simply because these communities form a minority, simply because they have the misfortune of representing an ancient type of civilisation not alive to the modern life and modern methods of agitation in the platform and there is no powerful advocate to represent their cause, simply because of these difficulties, to say that the legislature should step in and say "All right you make so much money; why not pay the income-tax?" is rather not fair.

PRESIDENT: I do not think they can get a more powerful advocate than you.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I am very glad. We ought to look into the question with perfect equanimity and a spirit of justice. I cannot find any distinction between the agricultural lands in Edavakais and those in other places. If Mr. Subba Aiyar's principle is to be accepted, we will have to devise a scheme of taxation where several acts of injustice will have to be perpetrated. The State ought not to concern itself with all this. There will come a time—and the trend of opinion all along is to that effect—when land-tax itself will have to be abolished. We have heard several members on this side of the House referring to it. When there is a likelihood of all lands being exempted from taxation, are we to ferret these Edavakai Chiefs and say 'You have not already been taxed; therefore, you should also be brought into the purview of the Income Tax Regulation that we are going to enact,' and thus inflict a burden upon them simply because they are rich or they get good income from their lands? After all, the amount of money that the Government may get by way of taxation from these people under this Regulation may not be so much as to compensate for all the ill-feeling or heart-burning that we may thereby give rise to.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): May I ask Mr. T. K. Velu Pillai whether, when land tax is abolished, the income from land should be assessed or not?

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): That is a hypothetical question. When land tax is abolished, income of whatever kind may have to be taxed. That is a point which I need

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[Mr. T. K. Velu Pillai.]

not answer now. If the day comes when land tax is abolished and if, at that time, myself and my friend happen to be both alive and also members of this Council, we will certainly have an opportunity of talking about the question then. We are only referring now to the financial or political rights of these people who own Edavakais. The question now is only whether we should bring these people under the purview of the Income Tax Regulation when they are enjoying a right of freedom from taxation of any kind conferred on them by the Sovereign of the State.

PRESIDENT: Is it the trend of modern thought to exclude agricultural income from income tax, under all circumstances, beyond a certain limit?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): In a country where there is no land tax, even the people who derive income from agriculture will have to contribute to the general revenue. That is not the case in our country. That is not the sort of question put to me by Mr. Parameswaran Pillai. The question from the Chair was specific enough and I am able to answer it. Let us not peep into the future in these matters. Let us take actual conditions. If agriculture does not impose on some people a liability to contribute any sum towards public revenue, I do not see why we should impose tax on the agricultural income of such people. We ought to take a liberal view in these matters. So far as I am concerned, I think Mr. Raja Raja Varma has proposed an amendment which ought to arrest the attention of the House and command their acceptance. It is a very beneficial suggestion, and if this Council does not want to be handed down to posterity as a body who would subscribe to curious positions and make people pay under circumstances when others are not obliged to pay, simply because their voices are feeble and they are not many, it should accept it. I think, Sir, we will forfeit all the respect that the world has for us if the amendment is not accepted.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): May I ask Mr. Velu Pillai whether anybody likes income tax?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Sir, several years ago, in the Assembly, when I, for the first time, advocated the imposition of income tax, the President Mr. M. Krishnan Nair put me the question whether income tax would be paid gladly by the people. I was reminded of the definition of tax, as 'a compulsory contribution by the people' which I studied as a student. It is a compulsory contribution and therefore whether the people like it or not is altogether a different matter. I am now only discussing the policy that we should have before us. We ought not to show any difference between ordinary agricultural income and the agricultural income of the owners of Edavakais and Jenmies. This is a matter on which I feel very keenly. Even on a former occasion I had to speak on the same subject and I maintain the same position even now because I am not able

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to change my conviction. I am only supporting the cause of justice, because there are not very many people in this Council who would be affected by this provision. I therefore trust in the good sense of the House.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): May I ask Mr. Velu Pillai whether the Edavakais can be placed on the same footing as permanently settled estates in British India?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Edavakais have to be placed on a much higher footing.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): I was asking whether, for purposes of taxation, the position of Edavakais is different from that of permanently settled estates in British India.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Yes, Sir; because, in British India, there are a number of permanently settled estates and whatever might have been their contribution in ancient days, the Government that is now protecting them and safeguarding their interests has had very little benefit from these owners of permanently settled estates. That is not the case in Travancore. All these Edavakais have been of much use to the Travancore Royal family and to the Sovereigns of Travancore and they have been declared to be exempt from taxes of any kind and they are enjoying that right for the past so many years. Now, when the Government, by stealthily enacting the Income Tax Regulation, attempt to tax their agricultural income, I object to it.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): My question is whether, in the case of the permanently settled estates in British India, there was not an undertaking in perpetuity that land assessment would not be increased, and whether in this particular case also Mr. Velu Pillai's contention is not that a certain undertaking has been made in perpetuity as regards these Edavakais and that such undertaking has got to be observed.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): That is one of my contentions.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): I merely ask, Sir, with regard to taxation.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): The assurance of Government is with regard to land revenue.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): Do these Edavakais pay any land revenue?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): No; they have been declared to be exempt from land revenue.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): May I ask Mr. Velu Pillai, if they are exempted from land-revenue, how they are exempt from this Regulation also?

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[Mr. T. K. Velu Pillai.]

PRESIDENT: That he has already explained. He says, 'You exempt some cases alone of agricultural income while you do not do so in the case of others"? The question therefore is, what is agricultural income?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): If Government, after instituting a comparison between the Edavakais and the permanently settled estates, think that they should make a change of policy and declare that these Edavakais should contribute something to the public and that therefore the Edavakai lands should be taxed, that is quite a different matter. That will be at least very frank.

PRESIDENT: What Mr. Rangaswami Aiyangar asks you is whether the income derived from these Edavakais is not like the agricultural income derived from the permanently settled estates of British India.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): There is some difference between the permanently settled estates of British India and the Edavakais of Travancore. When the British Government had to deal with a number of these Zemindaries and other permanently settled estates, they had to devise some *general* rules to be followed in the case of such estates. But here, in Travancore, Edavakais are very very few in number and each Edavakai stands on its own footing. There is no general rule in the case of these Edavakais as in the case of the permanently settled estates of British India.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): Is Mr. Velu Pillai aware that permanently settled estates in Bengal claimed a right to be exempted from all other taxes?

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): No, so far as I am aware. But I am prepared to accept what Mr. Rangaswami Aiyangar says. But, so far as I am aware, the tenants and others in permanently settled estates are not exempt from other taxes.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): My question is whether a claim was not made about 60 years ago, by owners of permanently settled estates in Bengal, to be freed from other taxes.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): That claim was not allowed.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): That is exactly what I want.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I am thankful to him for teaching a lesson to me even in this Council. (*Laughter.*) Mr. Rangaswami Aiyangar has enabled me to refute the inference that he has created in the Council.

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RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*) : I merely wanted to know whether Mr. Velu Pillai is aware of well-known historical facts. I never wanted anybody to draw any inference.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I thank him unconditionally for reminding me of that. In the case of the permanently settled estates of Bengal, they wanted to be exempted from certain other kinds of taxes, because the land tax was permanently settled. The Government thought that they had been stultified by the Act of Lord Cornwallis in the matter of land tax and they tried to get something which would be some approach to taxation. But although the owners of the permanently settled estates wanted the question to be agitated, in fact they were not allowed to do so.

As regards these Edavakais, Sir, if Government come forward and say that the owners of these Edavakai lands do not contribute anything by way of taxation and that therefore they should be forced to contribute at least by way of indirect taxation, then I can certainly understand the position. That will be a plain and straightforward way of doing things. But here Government have taken the position that they will not tax the Edavakai lands and at the same time stealthily come forward and claim income tax, under the Income Tax Regulation, for the *agricultural* income from these Edavagais while the *agricultural* income is not liable to assessment for income tax in any other case according to the general law of the country. That is the mischief done by this provision in the Income Tax Regulation.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*) : Was it in regard to income tax that, in British India, they raised the objection?

PRESIDENT : I do not think that bears upon the present question.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : Mr. Raja Raja Varma, although he is not a lawyer, has drafted the amendment in such a fashion that it is perfectly innocuous and I trust this Council will accept his amendment.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I wish also to offer a few observations upon the question now under discussion. In discussing the question whether some of these Edavakais are to be exempted from taxation—

PRESIDENT : Not some, but Edavagais generally and Jenmom lands.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Mr. Subba Aiyar suggested a solution that since there is a section in the Income Tax Regulation which empowers Government to exempt some people from taxation they may take advantage of that provision and that therefore there is no reason for these Edavakais to be aggrieved.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*) : Not in all cases, but only under certain conditions.

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[Mr. P. K. Narayana Pillai.]

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : That unfortunately resembles the nursery tale which says that, when a person wants to catch a bird, he should proceed first by putting some salt upon its tail and see that it is disabled. Now, Sir, the question at the outset before us is with respect to the liability of these corporate bodies, known as Edavakais, to taxation. When Mr. Subba Aiyar says that they may be exempted from taxation under the Income Tax Regulation by virtue of the power vested in Government, he first of all postulates the liability of these Edavakais to taxation. Here, it is exactly the right of Government to tax these Edavakais, that is in question, and here is Mr. Subba Aiyar, speaking on behalf of Government, who taking for granted the liability of these Edavakais to be taxed says that Government have power to exempt whomsoever they like from the operation of the Regulation.

PRESIDENT : Are you interpreting the present law or are you objecting to the legislation that we are now making?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : I mean the proposed legislation under consideration, I submit that exemption from liability implies liability to assessment.

PRESIDENT : It is only a suggestion of Mr. Subba Aiyar.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Yes ; I say that suggestion is not acceptable. When the Edavakais are urging, in the first instance, their non-liability to taxation, if, in reply to that contention, Mr. Subba Aiyar suggests that, after the Regulation is passed, they could, if Government were willing, get exemption from taxation. I am submitting that Mr. Subba Aiyar is begging the question.

MR. J. JOHN NIDIRY (*Changanachery* cum *Minachil*) : May I ask Mr. Narayana Pillai on whom lies the burden of proving the right of non-liability?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : The burden is upon the party who wants to impose the liability.

MR. S. C. H. ROBINSON (*Land Revenue and Income Tax Commissioner*) : Is it not a question of fact as to whether particular Edavakais are exempted from taxation under any old agreement or not ?

PRESIDENT : I do not think that is what Mr. P. K. Narayana Pillai is referring to.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : So, I am submitting, that, after all, is not a correct solution of the problem.

PRESIDENT : The present proposal is to make them liable to assessment. That is the proposal which Mr. Raja Raja Varma objects to.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*) : Exactly; that is the question, and Mr. Subba Aiyar says, 'Let us include them under

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the Bill for the present and make them liable, and let them get exemption from Government afterwards'. I say Mr. Subba Aiyar's solution is not satisfactary, because he has not advanced any argument showing the justification for their being made liable.

Then, as regards the question of the liability to taxation of the permanently settled Zemindaries, whatever might have been the state of affairs some years ago, the question has recently been raised in courts of law. One of such cases is the Full Bench case reported in 45 Madras, 518, known as the Chief Commissioner of Income Tax *v.* the Zemindar of Singampatti. Their Lordships held that, by virtue of the sannad granted to the Zemindar by Government, the present Zemindar was exempted from all manner of taxes, including income tax, although income tax could not have been under contemplation at the time the sannad was granted.

PRESIDENT: You are giving a specific instance. We are dealing with the general principle now.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): By construing the sannad it was found in that case that Zemindari should be exempted from all manner of taxes, including the income tax, even though it was not in existence at the time the sannad was granted. What I submit is, in British India, even though income tax was unknown at the time the sannad was granted, the sannad was so construed by the High Court as to exclude the Zemindari from the operation of the Income Tax Regulation.

Then, with respect to the permanently settled estates in Bengal, the question as to their liability for income tax was recently raised before the Calcutta High Court and two judges, unfortunately, differed, one judge preferring to follow the view of the Madras High Court as arrived at in the decision in the Full Bench case, and the other opposing it. So, the question remains unsettled.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): May I ask Mr. Narayana Pillai whether in those two cases that he referred to the question of levying income tax from agricultural income arose?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): The question turned upon the exemption to be allowed in favour of these Zemindaries.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Upon the terms of the agreement, I suppose.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): The scope of the permanent settlement; that was the subject considered.

Then, I submit, with respect to some of these Edavakais, for example the Edapalli Edavakai, the position is pretty clear. In a case between the Government of Travancore and the Edapalli Chief, the observations of a learned District Judge clearly show—

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Is it not still under appeal?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I do not think the Government are now going to dispute the facts found in that case.

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[Mr. P. K. Narayana Pillai]

PRESIDENT: I do not see any reason why you should discuss specific cases here.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I am not very particular about the decision in that case. It has been found by a court of law and there is also an order by a Dewan of Travancore, Dewan Rama Aiyangar, who says, "Edapalli is not part of Travancore, and the rules of this Sirkar cannot be applied to it". There are other observations also. So much so, the District Judge of Parur said, in a recent case, that the Edapalli is in the position of a tributary State under the sovereign authority of Travancore State and protected by it. Therefore, all revenue within Edapalli goes to the Chief and not to the Travancore Government. The excise revenue, the land revenue the abkari revenue, the forest revenue, all these things belong to the Edapalli Chief under the arrangement between him and the Travancore Government. Therefore, the Edapalli Chief is now in a position to contend that his position is much higher than that of a permanently settled estate in British India.

PRESIDENT: As I have already observed, these are not matters which we should discuss here. The Edapalli Chief can claim exemption or he can say that he is not liable, for such and such reasons.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): True. What I am now concerned with is that the Government, before they apply this Regulation indiscriminately to all people, will have to take into consideration necessarily the liability of some of these Edavakais, which are not, strictly speaking, estates, but which are originally exempt from all taxation. That is the position of these people and how far the Government will be justified in applying the ordinary rules prescribed by the Income Tax Regulation to these people is a question which deserves consideration.

Then, with respect to the question of agricultural income being taxed, I have only one word to say. No doubt there is some anomaly, Sir, in the matter of taxation in the land revenue system as well as the income tax system. It has been recently pointed out by a conference in Madras that it is somewhat strange that while the profession of Indian statesmen is that agricultural income should be free from taxation as far as possible, agriculture being the staple industry of the land, a man owning 10 cents of ground has to pay necessarily a tax upon the property when it is assessed to land revenue. He is necessarily to be taxed though he is a very poor holder, whereas in the field of income tax we would begin taxation only above Rs. 2,000 or any other sum as the case may be. What we are practically doing is we are not encouraging agricultural industry to develop, owing to the incidence of taxation on the side of land revenue. On the other hand, in the matter of Income Tax Regulation, only the rich man comes in to share the burden. So long as it is the intention of the Government to develop the agricultural industry, if of course, some reasonable and all-round remedy can be suggested, certainly it would be welcome.

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PRESIDENT: That does not arise here.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): What I am submitting is, simply to tax Edavakais on the ground that they have not been paying any land revenue, will be certainly discouraging the agricultural industry. If they are assessed to income tax, they will have to get that amount from the tenants. It may be a question whether the income which the Edavakai is able to derive is really the income owned by a single individual. Each Edavakai is something like a *sanasthanam* and not exactly like an ordinary jenmi. All these facts certainly deserve consideration. Unless something very strong is made out by Mr. Subba Aiyar to contend against the position assumed by Mr. Raja Raja Varma, I think I will have to support the motion.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): May I know from Mr. P. K. Narayana Pillai whether the position of the proprietor of an Edavakai is superior to that of a Malabar jenmi?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Certainly.

PRESIDENT: We will rise now and meet at 3 o'clock.

The Council adjourned for lunch at 2-24 of the clock, and re-assembled at 3-10 of the clock.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): Sir, I am sorry I have to oppose the amendment brought forward by my friend Mr. Raja Raja Varma. At the outset, let me submit that we should not cloud the issue with considerations of the claims of the Edapalli Chief to exemption from taxation. As far as I have been able to understand, their claim is that, according to the agreement they have entered into with the Travancore Government, the Travancore State is not competent to impose any tax at all upon them. If that claim is well founded, then the provisions of the present Regulation will not affect them at all, and it will be open to them to say, even if the Regulation is passed, that the provisions of this Regulation will not bind them. Therefore, that matter must be taken entirely out of our consideration in deciding whether the amendment should be adopted or not.

Coming to the question whether Edavakais should be made liable to income tax, as far as I can understand, their liability to taxation has been fixed by the existing Regulation itself. By the amending Regulation all that was meant was to make it clear that it was intended that the Edavakais also should be liable for payment of income tax.

Further, we find that, so far as land is concerned, the Government have been very considerate in the matter of taxation because we find the agricultural income, that is the income derived by the actual cultivator, is absolutely free from income tax. Then, we find that in so far as other persons who are not the actual cultivators are concerned—and who receive rent and other dues from the land, they are exempt from taxation if the land from which that rent is derived has been assessed to land revenue. Therefore, if they pay land tax, they are also

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[Mr. K. Paramesvaran Pillai.]

exempt from taxation. Now, what is claimed is that you must go further and exempt also all those persons who derive their income from land though that land is not already assessed to land revenue. I submit there is absolutely no basis or justice in this claim. It is the duty of every citizen to contribute according to his ability towards the expenses of the State. Otherwise the State cannot be run at all. What is their right to exemption from taxation ? It is that this income may ultimately be traced to land. In that remote sense it appears to me that there are very few people whose income is not derived from land. For instance, the income of a lawyer is mostly from clients who derive their income from the land as agriculturists. Again the income of the merchant is also to a very great extent derived from land because he purchases the produce from land like copra and sells it to other people. Hence in that remote sense, if you carry the thing so far, most people would be exempt from liability to income tax. That is not the object of the legislature. If, as a matter of fact, the holder of the land is paying some kind of tax to Government, as for instance in the shape of land tax, then he is exempt from taxation. If, on the other hand, he contributes nothing at all but derives income from the land which he does not himself cultivate or on which he pays no tax at all, there is absolutely no justice or equity in the claim that he should be exempt from payment of tax upon the large income that he derives. Probably, the number of Edavakais and people of that kind is small. That is no reason why they should be exempted. My friend, Mr. Velu Pillai, said that they form a minority and, therefore, the Legislative Council which consists of the representatives of the majority should not impose the will of the majority upon the minority.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : I must correct my friend. I said that the consideration of the fact that they are a minority should induce us to be just to them.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*) : What I submit is that perhaps it is a misfortune that those who enjoy privileges are always in the minority and that is no reason why their privileges should not be affected by legislative enactments. It appears to me, Sir, that there is absolutely no justice or reason why they should be allowed this exemption in so far as they do not contribute to the expenses of the State in any other manner. I therefore oppose the amendment.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : Is the rent that the Zemindar gets in British India liable to assessment under the Income Tax Regulation ?

PRESIDENT : Yes, it is.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*) : I am asking Mr. Paramesvaran Pillai.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*) : If it is for information, my friend has got it. But if it is to know whether I am aware of the fact or not,—

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MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Certainly, Sir, it is to ascertain whether Mr. Paramesvaran Pillai knows it. If he knows it, I must put him another question. If he does not know, I will not ask him another question.

MR. K. PARAMESVARAN PILLAI (*Tiruvalla*): I do not know it.

PRESIDENT: I may tell you for your information that it is.

MR. JOSEPH PANJIKARAN (*Shertallai*): Sir, I support the amendment moved by my friend Mr. L. R. Raja Raja Varma. So far as land and produce from land are concerned, I cannot think of any tax except land tax. If at one time certain Edavakais and certain lands were exempted from taxation, it was because the Government were forced to do so by the circumstances then existing; if the Government think that the circumstances that existed at the time at which such exemptions were made do not exist today, the Government is welcome to do away with these exemptions and impose land tax on these lands from which income tax is now sought to be collected. If these circumstances are not changed in such way as to enable Government to put their hands into the purses of the people who are exempted from land tax, I think the Income Tax Regulation, should not be made a means of taking away with one hand what was given with the other. Even considering the principle of the Income-Tax Regulation, I would think that agricultural produce of every kind must be exempted from taxation. From the collection of income tax, I do not see how the Government is going in any way to increase the productivity of the soil in the country or the output of the agricultural produce of the country. Of course it may be said that the Government do not keep separate agencies or separate purses for the money collected from this kind of source or any other kind of source. If we go into the origin of income tax, it will be seen that it was at first conceived of in cases of great emergencies and afterwards it was made permanent in England and European countries for the protection afforded by the State to trade and other industrial enterprises. By some misfortune or other, it was introduced in British India and it has been extended also to land there. That, I think, is a very poor argument for Travancore to do the same. My friend Mr. Paramesvaran Pillai has been saying that, if income from land is to be exempted from taxation, then every kind of income must be excluded from taxation, because the lawyer gets his fee from agricultural clients and the merchant also makes his profits out of the produce supplied to him by agriculturists and so on. I think that kind of argument should not seriously weigh with us because it is a mere confusion of ideas. So, I support the motion.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): Sir, I wish to submit to the House a few observations on the general questions which have been raised in connection with the amendment moved by Mr. Raja Raja Varma. I am grateful to my friends Messrs. T. K. Velu Pillai and P. K. Narayana Pillai for having made my position somewhat easier by the clear admissions

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[President.]

they made in regard to the position of *Edavakais*. I wish to say, at the outset, that, in the observations I am venturing to submit to this House, I am concerned with the amendment merely as a student of Economics and not as a member of the Government contingent here. I am only concerned with what has been called the terminological inexactitude in this instance. I understand that the question as to whether the *Edavakais* should be exempted or not from the operation of this new amending law centres round—

PRESIDENT: Existing law.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): Yes, existing law. The question is whether the income that they derive, among other things, from the land situated in their jurisdiction is to be regarded as agricultural income or not. Mr. T. K. Velu Pillai, in answer to questions which I put to him, admitted that the position of *Edavakais* is superior to that of the permanently settled estates in Bengal and elsewhere. Mr. P. K. Narayana Pillai carried the admission one step further when he admitted that the position of a proprietor of an *Edavakai* is higher than that of a Malabar *Jenmi*. As far as Indian tenures are concerned, there is no tenure-holder who has fuller right of property than the Malabar *Jenmi*. He claims rights which exist in the case of artificially created tenures on the frontiers of Bengal. No other tenure in India gives such absolute rights to property. Now, if the rights of the *Edavakai* holders are higher than those of the Malabar *Jenmies*, they can be only brought under one class.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I wish to speak a word by way of personal explanation. When I said that the position of the *Edavakai* owner in Travancore is higher than that of Zemindars or Malabar *Jenmies*, all that I meant was that the *Edavakai* has had a better immunity against land tax being imposed. That is all the sense in which I said that.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): I am grateful to him because he has made a further admission. If the proposal is to impose land tax upon the *Edavakais*, then Mr. Velu Pillai's argument will be perfectly valid. But, the proposal is not to impose a land tax upon the *Edavakais* on behalf of Government but to impose another kind of tax. Now, Mr. Velu Pillai's admission practically therefore amounts to this: he takes merely the same position that Mr. P. K. Narayana Pillai has taken.

MR. JOSEPH PANJIKARAN (*Shertallai*): May I know from Mr. Rangaswami Aiyangar whether he thinks that income tax would be smaller in amount or bigger in amount than the land tax as it is *imposed now* in Travancore?

PRESIDENT: How is it relevant to the present question? The question raised at present is not about the quantum of the tax.

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MR. JOSEPH PANJIKARAN (*Shertallai*): I want to ask whether, because they are exempted from land tax, a lighter tax should be imposed upon them.

PRESIDENT: He is talking of agricultural income.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): I have no objection to answer Mr. Panjikaran, though it is just shunting me on a side-track which has absolutely no connection to the line of my argument. My point, Sir, is that the admissions made by Mr. Narayana Pillai and Mr. Velu Pillai lead to the position, which is a perfectly conceivable position, that the *Edavakais* are in a very privileged condition. They are not to be regarded as Zemindars, not even as equal to Malabar *Jenmies* or owners of fendal tenures. But, they are having certain rights on land which must be regarded as a transfer of the rights of the Sovereign State.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): I do not accept that position so far as the Sovereign authority is concerned. I have never accepted that position so far as I am personally concerned.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): Whether Mr. Velu Pillai admits that position or not, it reduces itself to one of consistency. I am only concerned here with the admissions he has made and I am entitled to argue upon them.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Not when the admission is explained in the way in which it has to be taken down.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): May I submit the explanation is not sufficient? It must be a satisfactory explanation and it must be a convincing explanation. (*Hear, hear.*) In this particular case, Sir, it seems to me that the position of Mr. Narayana Pillai as regards *Edavakais* is correct. I am not able to challenge him because he moves more with the Edavakais and knows the relation of the State with the Edavakais. If the position is one which has been guaranteed by treaty and all that, I can understand an argument that is brought forward here with respect to jurisdiction. But the question pure and simple is whether these Edavakais should be excluded from the operation of this law. If they are to be excluded simply because the income they derive from the lands is considered as agricultural income, I must, as a student of Economics, object to that. It is *not* agricultural income. If it is agricultural income, then the income which Government derives from *Pandarapattom* lands will also be agricultural income. Government derives a certain amount of land revenue from the owners of *Edavakais* in regard to lands held by them directly or indirectly—I mean 'owners'. It is suggested that the rights are not exercised by the *Edavakais*, and since the lands are under Government, the income is agricultural income. Consequently it seems to me, Sir, that the bottom is cut out of the opposition to these provisions of law when it is assumed that the income that the

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[Rao Bahadur K. V. Rangaswami Aiyangar.]

Edavakais get from the lands situated in their jurisdiction is agricultural income within the definition in this Regulation.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know whether the Government of Travancore have conceded the position that these *Edavakais* stand on a superior footing to that of the ordinary subjects of the State?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): I am not at all aware of what the Government of Travancore have conceded or not conceded. In a matter like that, I expect my friend Mr. P. K. Narayana Pillai to instruct me, and to instruct me with great authority. All that I am concerned with is that, if he is arguing on the ground that their income is agricultural income, I may say that it is not.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): What about *Sripadam* lands?

PRESIDENT: That is a different matter. It is owned by a member of the Ruling Family and you cannot talk about that.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): I may be allowed to explain my position. The Sovereign is exempted by the Legislative Council Regulation, and not any member of the Ruling Family.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): "Ruling Family of Travancore"—that is the wording in the Regulation.

PRESIDENT: We cannot legislate for them. Therefore that does not arise.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): Mr. T. K. Velu Pillai when he commends these arguments asked us to take it that he did not argue on the case of the Edapalli lands, or Edavakai lands, or upon the instance of X, or Y or Z, or A or B, or C, but that he argued on general principles and not on specific instances independently of personalities, as an absolute question of finance. I am only following the admonition given by Mr. Velu Pillai to every member of the House, including myself, and claiming that we shall discuss it independently of *Sripadam*, Edapalli or any other. That is a question which I will consider later on. I heard Mr. Velu Pillai say that full power is vested in the Government to levy income tax on any body and that Government can exclude, from the operation of this law, any proprietor or any holder who can show good cause to the satisfaction of Government for being so excluded. It seems to me, Sir, that this is a question which has still to be adjudicated upon. Whether these *Edavakais* have a sovereign position or a semi-sovereign position or not—it is better left to the adjudication of a court of law. It is not a matter which is to be settled by Government or by a vote of this House. While much may be said in regard to the difficulties of

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Edavakai holders, this Council is not entitled to give away the rights which belong to the State as a whole. Public money is not money which anybody is entitled to give away. I am not concerned here with going into the question as to the precise position of the *Edavakais* towards the Sovereign State; I am not concerned here with the position on which most of the arguments have been based, namely, that because the income derived from these lands must be regarded as similar to the income which a landlord gets from the tenants and not as land revenue, or the revenue derived by the State from the *ryotwari* holders or any other holders, therefore, they must be *ipso facto* exempted from the operation of the law. I say that it is terminological inexactitude to call it as agricultural income. I am not concerned with the other aspects of the question.

Mr. Panjikaran raised the question of equity and the temporary character of income tax. That is historically correct. But I must say that the collection of income tax is persisted in on account of its being a particularly effective method of redressing inequalities of taxation which have sprung up elsewhere. I may say that one justification, theoretically, for the application of the income tax provision for cases of the specially exempted or specially favoured persons or corporations would be that it can be used to rectify historical inequalities, which, if they are allowed to presist, will perpetuate the unequal distribution of burdens in the community. That is one justification.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): May I know if the Government of Travancore regard the Edapalli Chief and the *Edavakai* people only as ordinary subjects, and whether the income derived from these *Edavakais* will be agricultural income?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): I take Mr. Narayana Pillai's position to be that the Edapalli Chief's position is superior to that of the position of the *Edavakais*.

PRESIDENT: That will depend upon the view taken by Government.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): If the Government consider them only as ordinary subjects of the State and not as semi-sovereigns, then that view has to be taken in the matter of taxation.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): As far as land revenue is concerned, it appears to me that what rights Government had possessed before were handed over to them whether you call them *Edavakai* or Edapalli. The Government takes absolutely not a copper cash out of whatever income from the *Edavakai* lands is derived by the owner of the *Edavakais*. Then again, the smallest owner of the *Edavakai* is the person who comes nearer to the Sovereign. Assuming that the person is not in the position which my friend Mr. Narayana Pillai would assign to the Edapalli Chief, then his position would be, as far as land is concerned, that of a person who receives the rights which the Government ordinarily

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[Rao Bahadur K. V. Rangaswami Aiyangar.]

has. That is to say, he has the same position over the land in his jurisdiction as the Government has, throughout Travancore, in regard to *Pandarappattom* lands. I say, therefore, that the argument brought forward is misleading. As far as I understand Mr. Raja Raja Varma correctly, he is trying to foist upon this Bill an interpretation which is erroneous and to commit this House to a settlement of a question which on the most charitable interpretation is still a question which has to be argued out dispassionately and decided outside, and cannot be settled by this House by a mere vote. I am quite prepared to concede that it may be possible for distinguished counsel to take each of these cases separately and argue for the special treatment of these cases before a court. That position would merely strengthen my contention. I am submitting that it is not right that this question should be decided in this Council by a vote on an amendment which begs the question. We should not now and once for all decide what seems to be transparently opposed to the ordinary interpretation of agricultural income and interpretation according to this Regulation and say that any income which accrues to an owner of an *Edavakai* from lands within his jurisdiction is agricultural income in the ordinary sense or in the statutory sense. It is this point that I am submitting to the House. It is argued that these people are heavily taxed. It is an irrelevant matter. The quantum of tax paid, whether it is heavy or small, is not a matter for the consideration of the House. The question is whether income tax is to be imposed on them. Sir, the income tax is not a popular tax and nobody on this side of the House would be sorry if the income tax or any other tax is washed out. To exempt *Edavakais* from income tax without going into the merits of the question, because some one on their behalf says that they cannot come under the provisions of this law, is begging the question.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): May I ask whether it ceases to be agricultural income because a few chackrams are not paid as revenue to Government? We are now at the definition of the term 'agricultural income'; is the income derived by these Chiefs agricultural income or not?

PRESIDENT: It is the assignment of land revenue.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): Sir, at present we are trying to define agricultural income. In answer to the claim for exemption, it is urged that they do not pay any land revenue. I am just asking him whether, generally speaking, income obtained from land ceases to be agricultural income because a few chackrams are not paid by way of tax to Government.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): I will explain that presently. I have been concerned with the ordinary economic interpretation of the term 'agricultural income' and not with the statutory interpretation. In one sense, every kind of income can ultimately be traced to land. A school of economists

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thinks that all sources of income and all sources of wealth can ultimately be traced to the land. In that sense we can regard everything as derived from land.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Is it not an old theory of Economics?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal College of Arts*): Whether the theories are old or new, we are not concerned with. If Mr. Velu Pillai asks whether it is a correct theory that would be more relevant. There is a school of economists which is of opinion that all wealth is ultimately traceable to land and all income is also traceable to land.

There is also another point to be considered. I said, in regard to the exceptional position of the Zemindar land-holder, that the Government takes a share of what he gets. In this particular case, the State gets nothing at all, showing clearly that it has made a complete surrender of its rights to collect the revenue from these persons. That is my position. I am merely putting it forward to emphasise my position that, in the case of the *Edavakai* owners there is a permanent assignment of the Government land revenue. Mr. Krishna Aiyangar asked me a question. I am entitled, for the purpose of argument, to ask him another question regarding the definition of agricultural income which was once enacted in British India. Once that provision is brought into Travancore, Mr. Robinson claims his right to lay his hand upon the income for the purpose of assessing it to the income tax. He is entitled to do it under the statute. Agricultural income is income derived from agriculture as defined under this Regulation emanating from Travancore. That is the reason why I referred to the statutory interpretation as found in this Regulation. Under the statutory interpretation of this Regulation, I claim that the income he has derived from an owner of *Edavakai* from the lands in his jurisdiction is *not* agricultural income. That is my contention.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): May I ask Mr. Rangaswami Aiyangar whether if the fiscal laws of one country agree to consider the incidence of taxation in another country?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): Such questions of general economic importance are most interesting but are not relevant to the present discussion. I am only concerned with arguing the point on which Mr. T. K. Velu Pillai dwelt. Mr. T. K. Velu Pillai and I have studied together land tenures and economics. I am entitled, on the same assumptions as he has made and by our common allegiance to Economics, to rebut the validity of his arguments. That is what I have done.

MR. T. K. VELU PILLAI (*Trivandrum* cum *Nedumangad*): Suppose there is a corporation and that corporation leases land from one of the *Edavakai* owners, and for over three hundred years they were sub-leasing the land and getting an enormous income. Does Mr. Rangaswami Aiyangar say that that corporation is liable to pay incometax?

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[Mr. G. Parameswaran Pillai.]

RAO BAHADUR K. A. KRISHNA AIYAŃGAR (*Nominated*) (*Deputy President*): May I draw my friend's attention to the fact that under the amended Bill such incomes are exempted?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): We are now considering whether the owner of the *Edavakai* is liable, or not liable, to pay tax upon the income that he derives from the land. I presume that it is conceded that he is bound to pay tax upon every kind of land. Now if the Government's rights are held by an *Edavakai* proprietor, then any persons who hold lands from him will be in the same position. Their income will be agricultural income.

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): One more question and I will not ask any more questions. May I ask whether it will not frustrate the original intention of Government if they do not now exempt the *Edavakais* that were once exempted from payment of land tax?

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): Mr. Velu Pillai has created an ingenious misjoinder of a number of questions. First of all, I do not grant any of the assumptions of Mr. Velu Pillai. Whether the Government has undertaken to keep its hands off from taxing the *Edavakais* or not, is a question of fact on which I am not in a position to give any opinion. I am not conversant with the relevant facts. What facts I have knowledge of are only those now given by Mr. Velu Pillai and Mr. Narayana Pillai. I am only proceeding on the statements and admissions made on the floor of this House. If the Government have made an undertaking not to tax these *Edavakais*, then the proper course—

MR. T. K. VELU PILLAI (*Trivandrum cum Nedumangad*): Not to tax the lands in these *Edavakais*.

RAO BAHADUR K. V. RANGASWAMI AIYANGAR (*Principal, College of Arts*): There is no proposal here to tax the lands of *Edavakais*. I understand that the income which is to be taxed is the income derived from agriculture which the *Edavakais* get.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): May I ask whether agricultural income derived by the tenants from the land is proposed to be taxed?

PRESIDENT: No, it has been exempted.

MR. G. PARAMESVARAN PILLAI (*Neyyattinkara*): Sir, I am sorry I have to oppose the amendment before the House on principle. I cannot see eye to eye with the mover of the amendment in interpreting this revenue as agricultural income. I am one of those who do want Government to accept the principle that they will not as far as possible levy any fresh imposts on land. At the same time, I cannot certainly think that the revenue derived by the *Edavakais* in pursuance of assignment of land revenue in certain areas in favour of

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such *Edavakais* should be treated as income derived from land as is contemplated in the Income Tax Bill. For one other reason also, I should certainly oppose the amendment. If, for certain historical reasons, certain special concessions were given to particular classes, I should consider it high time that every opportunity should be taken to see that, in the matter of incidence of taxation, an equal, fair and equitable distribution thereof is secured in these times when such classes do share in the benefits of progressive administration. On these two grounds, I oppose the amendment moved in this House.

MR. L. R. RAJA RAJA VARMA KOILTAMPURAN (*Edavakai*): Sir, I have not much to say by way of reply. The only contention made against the amendment came to this that, when all the inhabitants are to be taxed by Government, the *Edavakais* and *Jenmies* should also be taxed. I have already opposed the contention, so that there is very little use of my giving explanations on this point. It was there that views differed; it was on that point that the Government members and some others opposed the amendment. I would press the motion for the vote of the House.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I did not explain at the outset the necessity for imposing a tax on *Edavakais* and *Jenmies* whose lands are tax free. The present Bill makes them liable to taxation and Mr. Rajaraja Varma's amendment is only to exempt them from the tax that they have now to pay and that amendment has been due to the fact that he wanted to delete the words in that particular clause. I did not want to oppose the amendment on the over-technical ground that is not in order. Seeing that the particular clause, 2 (*a*), was before the House, I thought his amendment may be discussed. Mr. Raja Raja Varma did not make out any case for deleting those lines except on the ground of contract. I would like to place before the House one or two circumstances from which it will be clear that the income derived from these lands is not agricultural income. All *Pandarapattom* lands, before the Proclamation of 1040, belonged to the Sirkar. In theory the Sirkar was the owner. The tenant was actually in possession of the lands and he paid the rent that was fixed by the Sirkar. Every *Pandarapattom* tenant got by the Proclamation an alienable and a heritable right. The *Pandarapattom* tenant is the absolute owner and the income which the Government got by way of tax is not agricultural income. The *Jenmies* and the *Edavakai* proprietors know, as a matter of fact, that they are overlords, and the tenants who hold property under them are registered proprietors having an alienable and heritable right. What is paid by the tenant is *rajabhogam* and it is paid to the overlord as such. In that view, strictly speaking, it is not agricultural income.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Then I should like to know why he should oppose the amendment at all.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Because though it is a *rajabhogam*, in this particular case, it happens to be called rent. If he leases it to a tenant that also is called rent. What is

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[Mr. Trivikramar Vasudevar.]

called *rajabhogam* is in ordinary parlance called rent which is derived by the overlord from the tenant. Therefore, the wording is put in as it is. I say, therefore, there is absolutely no reason why the *Edavakai* proprietors and *Jenmies* should be exempted from payment of income tax.

MR. L. R. RAJA RAJA VARMA KOILTAMPURAN (*Edavakai*): Can they be assessed for land tax?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Under the custom, they are exempt from that. If they are exempted from land tax, I do not see why they should be exempt from other taxes.

MR. P. K. NARAYANA PILLAI (*Ambálapuzha*): May I know whether if the amendment deleting a certain line simply widens the expression "agricultural income" and if this would not be agricultural income, how does the amendment prejudice Mr. Subba Aiyar's case?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): The amendment wants to exempt that. The proprietor is a land-holder and when he is taxed, the subordinate person need not be taxed.

MR. L. R. RAJA RAJA VARMA KOILTAMPURAN (*Edavakai*): May I ask Mr. Subba Aiyar if he does not think that charging them under land tax will have a better case for them in a court of law, while bringing them under the Income Tax will not have a case at all?

PRESIDENT: That is not the proposal now. The Government do not propose to assess them under land tax.

MR. L. R. RAJA RAJA VARMA KOILTAMPURAN (*Edavakai*): I only wanted to point out that fact.

PRESIDENT: Do you press it to the vote of the House?

MR. L. R. RAJA RAJA VARMA KOILTAMPURAN (*Edavakai*): Yes, Sir.

The amendment was put to the vote and lost, 12 voting *for* and 23 *against*.

MR. TRIVIKRAMAR VASUDEVAR (*Jenmies*): ഭരണം എടുത്ത് കൊള്ളാം.

A poll was taken with the following result:

Ayes—12.

1. Mr. Trivikramar Vasudevar.
2. ,, T. K. Velu Pillai.
3. ,, P. T. Thomas.
4. ,, N. Ramakrishna Pillai.
5. ,, M. N. Pillai.
6. ,, P. K. Narayana Pillai.
7. ,, Joseph Panjikaran.
8. Mr. L. R. Raja Raja Varma Koiltampuran.
9. ,, T. Kumara Pillai.
10. ,, A. Govinda Menon.
11. ,, T. M. Chidambaratanu Pillai.
12. Khan Sahib M. K. Khadir Pillai.

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Noes—23.

1. Mr. M. R. Madhava Variar
2. ,, K. C. Mammen Mappillai.
3. ,, G. Paramesvaran Pillai.
4. ,, K. Paramesvaran Pillai.
5. ,, N. Kumaran.
6. ,, V. Kunjukrishna Pillai.
7. The Rev. Fr. Kuriakose Vettikkapalli.
8. Mr. C. P. Kochukunju Pillai.
9. ,, K. George.
10. ,, R. Krishna Pillai.
11. ,, S. Paramesvara Aiyar.
12. ,, V. Subba Aiyar.
13. Mr. J. Stephenson.
14. ,, R. Dhanukoti Pillai.
15. ,, I. C. Chacko.
16. ,, S. C. H. Robinson.
17. ,, K. Paramesvaran Pillai. (*Ag. Director of Agriculture.*)
18. Rao Bahadur K. V. Rangaswami Aiyangar.
19. Mrs M. Poonen Lukose.
20. Mr. A. J. Van Ross.
21. ,, M. Raja Raja Varma.
22. ,, K. V. Natesa Aiyar.
23. ,, W. H. Pitt.

The amendments were declared lost.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): In this connection, before we pass on to the other clauses, I have an amendment to this clause itself. We find in clause 2 (1) (*a*), the words "or subject to local rates assessed and collected by officers of Our Government *as such*." That supposes, Sir, that it must be assessed by the officers of Government and collected by Government. I think, to avoid all misunderstanding, it will be better to say what we mean by "assessed and collected." The assessment of the tax and the collection must be by the officers of Government on behalf of Government. It is better to be clear. I would, therefore, propose with your permission, Sir, that "for and on behalf of Government" be substituted for "as such".

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): I should like to know what Mr. Subba Aiyar will have to say with respect to cess to be assessed and collected by a Village Panchayat.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It will not be a cess assessed by Government.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): Will it be exempted?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): It will be exempted.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Why will he exempt that?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Because it is not collected by the officers of Government.

PRESIDENT: The House may remember that on an earlier occasion in the original Bill these words were omitted. These words were restored by the Select Committee.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): If anybody levies any cess, certainly all these lands are exempted from income tax. That was the reason why the Select Committee introduced it. My only amendment is that "for and on behalf of Government"

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[Rao Bahadur K. A. Krishna Aiyangar.]

be introduced for the words "as such". Otherwise it will be meaningless. This is simply to make it clear.

PRESIDENT: In other words, the object of your amendment is to exempt only lands that pay a cess to Government.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Yes. It may be collected by an agency. But it is collected by that agency as an officer of Government.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): But if it is a local rate?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): That may also be collected. Supposing a punitive tax is levied for the purpose of Government. It may be a tax levied by Government just as an education or irrigation cess and the Government must be able to collect the cess. So that I would substitute the words "for and on behalf of Government". That is my amendment.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): Why should the hands of Government be tied at this stage? So far as that goes, the Select Committee simply restored the position that was contained in the orginal Regulation. And that is the provision in the British Indian Act. The nervousness of my friend has no basis whatsoever.

PRESIDENT: I am not quite sure that it is identical with the British Indian Act.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): Yes. That is the language of the British Indian Income Tax Act. It was the language of our Regulation too. It was introduced for some purpose or other; but it was proposed by the Select Committee to delete the whole of it. In the Select Committee we wanted to retain it—rightly we were under the impression that, if the lands were assessed under a local rate, it may escape taxation from an Income Tax Officer.

PRESIDENT: Do you press your amendment, Mr. Subba Aiyar.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): No, Sir, I do not.

PRESIDENT: You have to consider and realise the implication of this provision. Supposing there is an irrigation cess which amounts to 4 cash in the rupee, and in some cases 3 cash in the rupee, are you going to exempt all lands paying this small cess from income tax. You will be accepting the amendment which has now been defeated. Suppose there are Jenmom and *Edavakai* lands within the Village Panchayat and you want to levy a small cess, you cannot tax.

RAO BAHADUR K. A. KRISHNA AIYANGAR (*Nominated*) (*Deputy President*): If it is collected by officers as such, it may be—

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): Care may be taken at the time of the imposition, whether these Jenmies and *Edavakais* are being assessed.

PRESIDENT: Government are not anxious to impose any cess. If you create bodies and assign functions to them, they must have some income.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I shall leave it to the House. I think it will be better to make it clear.

PRESIDENT: Then you may move it formally.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Then I beg to move "for and on behalf of Government" be substituted for "as such" in clause 2 (*a*) (*i*).

MR. S. PARAMESVARA AIYAR (*Secretary to Government*): I second it.

PRESIDENT: It is only a verbal amendment. It does not in any way alter the position so far as I can understand it. It will make matters clearer.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha*): What do you mean by saying "assessed and collected by officers of Government as such"?

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I have explained that already. It is only to make matters very clear. I only say "by officers of Government for and on behalf of Government."

PRESIDENT: May I take it that the House accepts the amendment.

The amendment was carried.

Clause 22.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): In clause 22 (*a*), I move that the words "under this Regulation" be inserted between "lie" and "within" in line 3. As the provision stands, a difficulty may arise. Under the Regulation there could be no difficulty. Now let us take that an appeal lies to the Division Assistant from the decision of the Tahsildar or an appeal lies to the Peishkar from the decision of the Division Assistant or to the Commissioner from that of the Peishkar. My point is that, supposing in the exercise of the appellate authority the Division Assistant passes an order, the question is to whom the appeal shall lie? Ordinarily a revenue order may not be revised by a Peishkar or by a higher authority. So that in order to make it clear from the Division Assistant to the Peishkar or from Peishkar to the Commissioner, I would insert the words "under this Regulation."

In other words whether an appeal from the decision of Division Assistants will lie to the Division Peishkar or from Peishkar to the Commissioner in order to make it clear, I am putting this amendment,

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[Mr. P. S. Marutanayakam Pillai.]

My lawyer friends know that a difficulty has arisen in the case of Criminal Procedure Code as to what is the authority to whom the appeal shall lie. Hence this amendment, *i. e.*, to insert "under this Regulation" between "lie" and "within".

MR. S. PARAMESVARA AIYAR (*Secretary to Government*): I second it.

PRESIDENT: May I take it that the House accepts this.

The amendment was carried.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): I beg to move that the Bill may be read again to-morrow.

The Nanjinad Vellala Bill.

MR. V. SUBBA AIYAR (*Additional Head Sirkar Vakil*): Sir, I beg to move that the Nanjinad Vellala Bill may be taken up for consideration.

MR. P. S. MARUTANAYAKAM PILLAI (*Co-opted*): I rise to a point of order. സ്റ്റാൻറിങ്ങ് ആർഡർ നമ്പർ 70 വകുപ്പിൽനിന്നും ഒരു ബിൽ ആലോചനയ്ക്കെടുക്കുന്നതിനു ഏഴുദിവസം മുമ്പുറിക്കാർഡു കാര്യമെല്ലാം നോക്കിയിരിക്കണമെന്നുകാണുന്നു.

PRESIDENT: Are you going to talk in Malayalam?

MR. P. S. MARUTANAYAKAM PILLAI (*Co-opted*): Yes, Sir. എനിക്കു സെലക്ട് കമ്മിറ്റിറിപ്പോർട്ടും ഭേദഗതിയ്ക്രാഫ്റ്റും 10-ാം തീയതിയാണ് കിട്ടിട്ടുള്ളത്. അതുകിട്ടിട്ടു അഞ്ചുദിവസമേ ആകുന്നുള്ളു. അതുകൂടാതെ സെലക്ട് കമ്മിറ്റി റിപ്പോർട്ടു തമിഴിൽ ഗസറ്റിൽ പരസ്യം ചെയ്തിട്ടു 10 ദിവസംവരെ ആകുന്നുണ്ട്. സാധാരണയായി നായർ ബിൽ, ഈഴവബിൽ മുതലായവയെല്ലാം മൂന്നുമാസത്തിനു മുമ്പുതന്നെ സാവകാശംകൊടുത്തു കൌൺസിലിൽ ആലോചനയ്ക്കെടുത്തിട്ടുണ്ട്. എന്നെയിവിടെ കമ്പിമൂലം നിയമിച്ചതു 10-ാം തീയതിയാണു. എന്നെ കൌൺസിലിലേക്കു തിരിഞ്ഞെടുത്തതു 12-ാം തീയതിയാണ്. അതുകൊണ്ടു ഞാൻ വന്നപിറ്റേദിവസം തന്നെ അഫിഷ്യൽ ബിസിനസ് മുഴുവൻ തീർന്നുപോയി.

PRESIDENT: You say that the Select Committee report on the Bill has not been available to you before seven days. Is that your contention?

MR. P. S. MARUTANAYAKAM PILLAI (*Co-opted*): Yes. അതുകൂടാതെ ഈ സെലക്ട് കമ്മിറ്റി റിപ്പോർട്ടിൽ അനുപതോളം ഹാജർകാര്യം ഉള്ളതായികാണുന്നു. അതു ഏതെല്ലാം പ്രകാരത്തിലാണെന്നുഎനിക്കറിയുവാൻ ഇടവന്നിട്ടില്ല.

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